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May 9, 2017

VIA ECF

Magistrate Judge Jacqueline Scott Corley
USDC, Northern District of California
San Francisco Courthouse
Courtroom F - 15th Floor
450 Golden Gate Avenue, San Francisco, CA 94102

Re: Waymo LLC v. Uber Technologies, Inc., et al., N.D. Cal. Case No. 3:17-cv-00939-WHA

Dear Magistrate Judge Corley:

Waymo hereby responds to Uber's letter brief filed this afternoon. Uber's stated "intent[ion]" to delay production of the Acquisition Agreement until Thursday is unjustified and improper. Instead, Waymo requests that Defendants be ordered to produce, on an Attorneys' Eyes Only basis, the Acquisition Agreement and all exhibits, appendices, schedules, and documents incorporated into the agreement **by 9 p.m. tonight**.

The Acquisition Agreement is highly relevant to Waymo's pending Motion for a Preliminary Injunction. Just this afternoon, we received notice from Judge Alsup that his order on that motion "will very likely be filed this week."¹ (Dkt. 403.) If Defendants wait until slightly before midnight on Thursday to produce a redacted version of some subset of the Acquisition Agreement, then Waymo and the Court will be not be able to consider this "key document" that "should never have been withheld" before the Court rules on Waymo's motion. (Dkt. 354 at 32:19-22.)

Defendants suggest further delay is permissible because "we need to consult with other counsel to determine whether any part may be privileged, and which portions will be designated confidential or AEO pursuant to the Protective Order in this case." (Dkt. 402.) But to the extent Defendants have to date ignored the Court's directive from last Wednesday, at the hearing on Waymo's Motion for Preliminary Injunction, that "You better hurry up, because the judge wants to see it" (Dkt. 354 at 32:15-16), Defendants can make any privilege redactions this afternoon (to the extent any would be meritorious, which seems doubtful). And Waymo does not object to Defendants' producing

¹ The agreement is also material to the discovery teleconference with Magistrate Judge Corley on "how to approach the privilege question" (scheduled for Thursday, May 11 at 2 p.m.) and Waymo's Motion to Compel Production of Withheld Documents (the Reply in support of which is due this Friday, May 12).

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the Acquisition Agreement with an Attorneys' Eyes Only designation now, and then re-designating as appropriate on Thursday. Accordingly, there is no reason the agreement cannot be produced today.

Respectfully,

/s/ Charles K. Verhoeven

Charles K. Verhoeven

cc: All counsel of record.

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